

CERTIFIED MAIL

June 11, 2002

Mr. Mel Edwards
G & N Rubicon Gear, Inc.
1550 McFadden
Santa Ana, California 92705


Dear Mr. Edwards:

IN THE MATTER OF: **Docket No. HWCA 01102-33021**

Enclosed is a copy of the fully executed Consent Order for your files. This Consent Order resolves the enforcement issues concerning violations of the California Health and Safety Code and California Code of Regulations related to the August 16, 2001 inspection.

If you have any questions regarding this Consent Order, please contact David Stuck at (818) 551-2895.

Sincerely,



Florence Gharibian, Branch Chief
Statewide Compliance Division
Glendale Office

Enclosure

Certified Mail/Return Receipt Requested
No. 7001 2510 0008 9504 6972

cc: Ms. Nancy Long
Office of Legal Counsel
1001 "I" Street; 11th Floor
P.O. Box 806
Sacramento California 95812-0806

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

G&N Rubicon Gear, Inc.
1550 McFadden
Santa Ana, CA 92705

ID No. CAD 058230962

Respondent.

Docket HWCA 01/02-3021

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control
(Department) and G&N Rubicon Gear, Inc. (Respondent) enter into
this Consent Order and agree as follows:

1. Respondent generates hazardous waste at 1550
McFadden, Santa Ana, CA 92705 (Site).
2. The Department inspected the Site on August 16, 2001.
3. The Department alleges the following violations:
 - 3.1. The Respondent violated Health and Safety Code
Section 25160, subdivision (b)(3) and California Code of
Regulations, title 22 section 66262.42, subsection (a), in that on
35 occasions, on or about March 25, 1998 through December 11, 2000,
Respondent failed to contact the transporter or the owner or
operator of the designated facility, within 35 days of the date
waste was accepted by the initial transporter to determine the

1 status of the hazardous waste after not receiving a copy of the
2 manifest with the handwritten signature of the owner or operator of
3 the designated facility.

4 3.2. The Respondent violated Health and Safety Code
5 section 25160, subdivision (b)(3) and California Code of
6 regulations, title 22, section 66262.42, subsection (b), in that on
7 17 occasions, on or about March 25, 1998 through December 11, 2000,
8 Respondent failed to submit an Exception Report to the Department
9 when Respondent did not receive a copy of the manifest with the
10 handwritten signature of the owner or operator of the designated
11 facility within 45 days of the date the waste was accepted by the
12 initial transporter.

13 3.3. The Respondent violated Health and Safety Code
14 section 25163, subdivision (a) (1) in that on two occasions on July
15 18, 2000 and August 18, 2000, Respondent transferred custody of a
16 hazardous waste to a transporter who does not hold a valid
17 registration issued by the Department.

18 4. A dispute exists regarding the alleged violations.

19 5. The parties wish to avoid the expense of litigation
20 and to ensure prompt compliance.

21 6. Jurisdiction exists pursuant to Health and Safety
22 Code section 25187.

23 7. Respondent waives any right to a hearing in this
24 matter.

25 8. This Consent Order shall constitute full settlement
26 of the violations alleged above, but does not limit the Department
27 from taking appropriate enforcement action concerning other
28

1 violations.

2 9. Respondent admits violations 3.1 through 3.3 above.

3 SCHEDULE FOR COMPLIANCE

4 10. Respondent shall comply with the following:

5 10.1. Effective immediately, Respondent shall transfer
6 custody of a hazardous waste only to a transporter who holds a
7 valid registration issued by the Department.

8 10.2. Submittals: All submittals from Respondent
9 pursuant to this Consent Order shall be sent to:

10 Florence Gharibian, Branch Chief
11 Statewide Compliance Division
12 Department of Toxic Substances Control
13 1011 North Grandview Avenue
14 Glendale, California 91201

15 10.3. Communications: All approvals and decisions of
16 the Department made regarding such submittals and notifications
17 shall be communicated to Respondent in writing by a Branch Chief,
18 Department of Toxic Substances Control, or his/her designee. No
19 informal advice, guidance, suggestions, or comments by the
20 Department regarding reports, plans, specifications, schedules,
21 any other writings by Respondent shall be construed to relieve
22 Respondent of its obligation to obtain such formal approvals as
23 be required.

24 10.4. Department Review and Approval: If the Department
25 determines that any report, plan, schedule, or other document
26 submitted for approval pursuant to this Consent Order fails to
27 comply with the Order or fails to protect public health or safety
28 or the environment, the Department may return the document to

espondent with recommended changes and a date by which Respondent
ust submit to the Department a revised document incorporating the
recommended changes.

10.5. Compliance with Applicable Laws: Respondent shall
carry out this Order in compliance with all local, State, and
federal requirements, including but not limited to requirements to
obtain permits and to assure worker safety.

10.6, Endangerment during Implementation: In the event
that the Department determines that any circumstances or activity
(whether or not pursued in compliance with this Consent Order) are
creating an imminent or substantial endangerment to the health or
welfare of people on the site or in the surrounding area or to the
environment, the Department may order Respondent to stop further
implementation for such period of time as needed to abate the
endangerment. Any deadline in this Consent Order directly affected
by a Stop Work Order under this section shall be extended for the
term of such Stop Work Order.

10.7. Liability: Nothing in this Consent Order shall
constitute or be construed as a satisfaction or release from
liability for any conditions or claims arising as a result of past,
current, or future operations of Respondent, except as provided in
this Consent Order. Notwithstanding compliance with the terms of
this Consent Order, Respondent may be required to take further
actions as are necessary to protect public health or welfare or the
environment.

10.8. Site Access: Access to the Site shall be provided
at all reasonable times to employees, contractors, and consultants

of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

10.9. Sampling, Data, and Document Availability:

Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Consent Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Consent Order. If the Department requests that some or all of these documents be

1 preserved for a longer period of time, Respondent shall either
2 comply with that request, deliver the documents to the Department,
3 or permit the Department to copy the documents prior to
4 destruction. Respondent shall notify the Department in writing at
5 least six months prior to destroying any documents prepared
6 pursuant to this Consent Order.

7 10.10. Government Liabilities: The State of California
8 shall not be liable for injuries or damages to persons or property
9 resulting from acts or omissions by Respondent or related parties
10 specified in paragraph 12.3, in carrying out activities pursuant to
11 this Consent Order, nor shall the State of California be held as a
12 party to any contract entered into by Respondent or its agents in
13 carrying out activities pursuant to this Consent Order.

14 10.11. Incorporation of Plans and Reports: All plans,
15 schedules, and reports that require Department approval and are
16 submitted by Respondent pursuant to this Consent Order are
17 incorporated in this Consent Order upon approval by the Department.

18 10.12. Extension Requests: If Respondent is unable to
19 perform any activity or submit any document within the time
20 required under this Consent Order, the Respondent may, prior to
21 expiration of the time, request an extension of time in writing.
22 The extension request shall include a justification for the delay.

23 10.13. Extension Approvals: If the Department
24 determines that good cause exists for an extension, it will grant
25 the request and specify in writing a new compliance schedule.

26 PAYMENTS

27 11. Within 30 days of the effective date of this Consent
28

Order, Respondent shall pay the Department a total of \$17,000, of which \$5,000 is a credit towards compliance school ~~LX~~ environmental credit. Respondent shall submit to DTSC a certificate showing Modules I - IV were completed within 185 days of the date the Order is signed. Respondent shall commence payment of \$12,000 in the following six installments.

First payment of \$2,000 due on or before July 1, 2002

Second payment of \$2,000 due on or before October 1, 2002

Third payment of \$2,000 due on or before January 1, 2003

Fourth payment of \$2,000 due on or before April 1, 2003

Fifth payment of \$2,000 due on or before July 1, 2003

Sixth payment of \$2,000 due on or before October 1, 2003

Respondent's checks shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the checks shall be sent to:

Florence Gharibian, Branch Chief
Statewide Compliance Division
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

Office of Legal Counsel
Department of Toxic Substances Control
1001 I Street, 23rd floor
P. O. Box 806
Sacramento, California 95812-0806

Respondent hereby agrees to send an employee to the specified California Compliance School (Modules I - IV). Attendance must be

1 completed and the Respondent must submit a Certificate of
2 satisfactory completion issued by the California Compliance School
3 to the Department of Toxic Substances Control within 185 days of
4 the date of this Order. In recognition of this educational
5 investment, the penalty imposed by this Order has been reduced by
6 5,000 if the employee satisfactorily completes the specified
7 modules and the Department receives the Certificate of Satisfactory
8 completion within 185 days of the effective date of this Order.

9
10 If Respondent fails to submit the certificate as required the
11 penalty of \$5,000 is due and payable within 30 days after the 185
12 day period expires. The 185-day period may be extended by a DTSC
13 Branch Chief upon a written request demonstrating good cause from
14 the Respondent.

15
16 If Respondent fails to make payment as provided above, Respondent
17 agrees to pay interest at the rate established pursuant to Health
18 and Safety Code section 25360.1 and to pay all costs incurred by
19 the Department in pursuing collection including attorney's fees.

2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

OTHER PROVISIONS

12.1, Additional Enforcement Actions: By agreeing to
this Consent Order, the Department does not waive the right to take
further enforcement actions, except to the extent provided in this
Consent Order.

12.2. Penalties for Noncompliance: Failure to comply
with the terms of this Consent Order may subject Respondent to

1 civil penalties and/or punitive damages for any costs incurred by
2 the Department or other government agencies as a result of such
3 failure, as provided by Health and Safety Code section 25188 and
4 other applicable provisions of law.

5 12.3. Parties Bound: This Consent Order shall apply to
6 and be binding upon Respondent and its officers, directors, agents,
7 receivers, trustees, employees, contractors, consultants,
8 successors, and assignees, including but not limited to
9 individuals, partners, and subsidiary and parent corporations, and
10 upon the Department and any successor agency that may have
11 responsibility for and jurisdiction over the subject matter of this
12 Consent Order.

13 12.4. Effective Date: The effective date of this
14 Consent Order is the date it is signed by the Department.

15 12.5. Intesration: This agreement constitutes the entire
16 agreement between the parties and may not be amended, supplemented,
17 or modified, except as provided in this agreement.

18
19 Dated: 06/05/02

Signature of Respondent
Representative

20
21
22
23

Typed or Printed Name and Title of
Respondents Representative

24
25 Dated: 6/10/02

Florence Gharibian, Branch Chief
Statewide Compliance Division
Department of Toxic Substances
Control